IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.9ll of l998

Dattatraya V Darshane.....petitioner
vs
M S E B and ors.. respondents

Mr. G.S Godbole for petitioners
Mr P M Mengane and S A Waghule for respondent nos.l to 3
Mrs. S S Bhende AGP for respondent nos. 4 and 5

CORAM:A.P.SHAH & S.C.DHARMADHIKARI JJ.
Dated 25.l0.2004

P.C:

l. This petition is directed against the order passed in Eviction Case No.3 of l997. This order of eviction is already enforced and the challenge is restricted only to the direction of the Competent Authority for payment of Rs.95,24l/- towards past rent.

2. Mr.Godbole,learned counsel appearing for the petitioner submitted and in our opinion rightly that as far as past rent is concerned, no notice was given to the petitioner as required by law and, therefore, the order suffers from non observance of principles of natural justice.

3. The learned counsel for the MSEB informed us

that the MSEB has filed a suit in respect of the claim for past rent and the suit is decreed against the petitioner and against that decree petitioner has preferred an appeal before the district court. In view of the decree passed by the civil court, order of the Competent Authority does not survive and the same is set aside. This is without prejudice to the rights and contentions of the parties in the pending appeal.

Petition is disposed of accordingly.